

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

VICKIE FORBY, individually and on behalf of all others similarly situated,

Plaintiff,

V.

ONE TECHNOLOGIES, LP; ONE TECHNOLOGIES MANAGEMENT LLC; and ONE TECHNOLOGIES CAPITAL LLP,

Defendants.

Civil Action 3:16-CV-856-L

PLAINTIFF’S OPPOSED MOTION FOR RELIEF FROM ORDER OR JUDGMENT
PURSUANT TO RULE 60

1. The relevant facts and procedural history made the basis of Plaintiff's requested relief are set forth in *Plaintiff's Motion for Leave to File Fourth Amended Complaint*. The facts, procedural history, and defined terms are incorporated as if fully set forth herein.

2. Plaintiff seeks relief from this Court’s Order striking Plaintiff’s class allegations [Dkt. 129] because Defendant cannot compel Plaintiff to arbitrate her claims; Defendant could not have compelled any consumers’ claims to arbitration before October 26, 2021; and because the Terms and Condition, even if they are enforceable—which they are not, do not waive any consumers’ right to represent or participate in class action proceedings.

3. Under no circumstance can Defendant compel Plaintiff's or any class member's claims to arbitration. Accordingly, Plaintiff seeks relief under Federal Rule of Civil Procedure 60 to reinstate her previously stricken class allegations and her CROA claim, which the Fifth Circuit

held must be arbitrated. Plaintiff's arguments and authorities for the requested relief are set forth in her *Brief in Support of Motion for Relief from Order or Judgment Pursuant to Rule 60*.

November 12, 2021

Respectfully submitted,

/s/ Stuart L. Cochran

Stuart L. Cochran
Texas Bar No. 24027936
Blake E. Mattingly
Texas Bar No. 24104229
STECKLER WAYNE COCHRAN CHERRY PLLC
12720 Hillcrest Rd., Ste. 1045
Dallas TX 75230
Tel: 972-387-4040
Email: stuart@swclaw.com
Email: blake@swclaw.com

David C. Nelson (ARDC 6225722)
NELSON & NELSON, ATTORNEYS AT LAW, P.C.
420 North High Street, P.O. Box Y
Belleville, IL 62222
Tel: 618-277-4000
Email: dnelson@nelsonlawpc.com

Matthew H. Armstrong (MoBar 42803)
ARMSTRONG LAW FIRM LLC
8816 Manchester Rd., No. 109
St. Louis MO 63144
Tel: 314-258-0212
Email: matt@mattarmstronglaw.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

Plaintiff is filing this motion pursuant to the court's directive at the most recent status conference in this case. Based upon the discussions during same, counsel for Defendant indicated they were opposed to Plaintiff's relief sought.

/s/ Stuart L. Cochran

Stuart L. Cochran

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2021, this document was filed through the Court's ECF system, which automatically transmits the filing to all counsel of record for all parties in this litigation.

/s/ Stuart L. Cochran

Stuart L. Cochran